

VIRRA MALL TENANTS ASSOCIATION, INC., PETITIONER, VS. VIRRA MALL GREENHILLS ASSOCIATION, INC., LOLITA C. REGALADO, ANNIE L. TRIAS, WILSON GO, PABLO OCHOA, JR., BILL OBAG AND GEO...

G.R. No. 182902. October 05, 2011

Ponente: SERENO, J.

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SERENO, J.:

Before us is a Petition for Review of the 21 May 2007 Decision[1] and 14 May 2008 Resolution[2] of the Court of Appeals (CA) dismissing the Complaint-in-Intervention and denying the Motion for Reconsideration both filed by petitioner.

Ortigas & Company, Limited Partnership (Ortigas) is the owner of the Greenhills Shopping Center (GSC). On 5 November 1975, Ortigas and Virra Realty Development Corporation (Virra Realty) entered into a Contract of Lease (First Contract of Lease) over a portion of the GSC. The 25-year lease was to expire on 15 November 2000. Pursuant thereto, Virra Realty constructed a commercial building, the Virra Mall Shopping Center (Virra Mall), which was divided into either units for lease or units whose leasehold rights were sold.[3]

Thereafter, Virra Realty organized respondent Virra Mall Greenhills Association (VMGA), an association of all the tenants and leasehold right holders, who managed and operated Virra Mall. In the First Contract of Lease, VMGA assumed and was subrogated to all the rights, obligations and liabilities of Virra Realty.[4]

On 22 November 2000, VMGA, through its president, William Uy (Uy), requested from Ortigas the renewal of the First Contract of Lease.[5]

VMGA secured two insurance policies to protect Virra Mall against damage by fire and other causes. However, these insurance coverages expired simultaneously with the First Contract of Lease on 15 November 2000.[6] Subsequently, on 13 March 2001, VMGA acquired new sets of insurance policies effective 10 January 2001 to 31 December 2001.[7]

On 5 May 2001, Virra Mall was gutted by fire, requiring substantial repair and restoration. VMGA thus filed an insurance claim through the insurance broker, respondent Winternitz Associates Insurance Company, Inc. (Winternitz). Thereafter, the proceeds of the insurance were released to VMGA.[8]

On 3 September 2001, Ortigas entered into a Contract of Lease (Second Contract of Lease) with Uy effective 2 November 2001 to 31 December 2004. On 11 September 2001, the latter assigned and transferred to petitioner Virra Mall Tenants Association (VMTA) all his rights and interests over the property.[9]

On 7 February 2003, Ortigas filed a Complaint for Specific Performance with Damages and Prayer for Issuance of a Writ of Preliminary Attachment against several defendants, including herein respondents. It accused them of fraud, misappropriation and conversion of substantial portions of the insurance proceeds for their own personal

use unrelated to the repair and restoration of Virra Mall. To secure the subject insurance proceeds, Ortigas also sought the issuance of a writ of preliminary attachment against herein respondents. The case was docketed as Civil Case No. 69312, and raffled to the Regional Trial Court, National Capital Judicial Region, Pasig City, Branch 67 (RTC Br. 67), which issued a Writ of Preliminary Attachment on 12 February 2003.[10]

On 17 February 2003, VMTA filed a Complaint-in-Intervention.[11] It claimed that as the assignee or transferee of the rights and obligations of Uy in the Second Contract of Lease, and upon the order of Ortigas, it had engaged the services of various contractors. These contractors undertook the restoration of the damaged area of Virra Mall amounting to P18,902,497.75. Thus, VMTA sought the reimbursement of the expenses it had incurred in relation thereto.[12] RTC Br. 67 admitted the Complaint-in-Intervention in its Order dated 8 January 2004.[13]

On 5 March 2004, herein respondents moved for the dismissal of the Complaint-in-Intervention on the ground that it stated no cause of action.[14] In its Omnibus Order dated 2 August 2005, RTC Br. 67 denied this Motion to Dismiss.[15] The trial court based its Decision on the grounds that (a) by filing the said motion, herein respondents hypothetically admitted the truth of the facts alleged in the Complaint-in-Intervention, and (b) the test of sufficiency of the facts alleged was whether or not the court could render a valid judgment as prayed for, accepting as true the exclusive facts set forth in the Complaint.[16] Thus, RTC Br. 67 held that if there are doubts as to the truth of the facts averred, then the court must not dismiss the Complaint, but instead require an answer and proceed to trial on the merits.[17]

On a Rule 65 Petition for Certiorari alleging grave abuse of discretion, the CA reversed the ruling of RTC Br. 67 and dismissed the Complaint-in-Intervention on the following grounds: (a) VMTA failed to state a cause of action; (b) VMTA has no legal interest in the matter in litigation; and (c) the Complaint-in-Intervention would cause a delay in the trial of the action, make the issues more complicated, prejudice the adjudication of the rights of the parties, stretch the issues, and increase the breadth of the remedies and relief.[18] The relevant portions of the Decision read:

Section 2, Rule 2 of the Rules of Court defines a cause of action as the act or omission by which a party violates the right of another. Its essential elements are as follows:

1. A right in favor of the plaintiff by whatever means and under whatever law it arises or is created;
2. An obligation on the part of the named defendant to respect or not to violate such right; and
3. Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.

It is, thus, only upon the occurrence of the last element that a cause of action arises, giving the plaintiff the right to maintain an action in court for recovery of damages or other appropriate relief. (*Swagman Hotels and Travel, Inc. v. Court of Appeals*, G.R. No. 161135, April 8, 2005, 455 SCRA 175, 183). If these elements are absent, the complaint is dismissible on the ground of failure to state a cause of action.

What VMTA actually seeks in filing a complaint-in-intervention is the reimbursement of the cost of the restoration and rehabilitation of the burned area of the Virra Mall building. And VMTA believes that such reimbursement must be made from the fire insurance proceeds released to VMGA. Such position cannot be sustained.

... ..

Firstly, We find that the complaint-in-intervention fails to state a cause of action against the petitioners. The

material averments of the complaint-in-intervention belie any correlative obligation on the part of herein petitioners vis-à-vis the legal right of VMTA for reimbursement. The petitioners are not the proper parties against whom the subject action for reimbursement must be directed to. On the contrary, since "x x x plaintiff Ortigas, as owner of the building, has ordered intervenor VMTA to undertake with dispatch the restoration and rehabilitation of the burned area or section of the Virra Mall building x x x" (par. 7 of Complaint-in-Intervention), VMTA's recourse would be to file and direct its claim against ORTIGAS who has the obligation to pay for the same. The complaint-in-intervention is not the proper action for VMTA to enforce its right of reimbursement. At any rate, VMTA's rights, if any, can be ventilated and protected in a separate action. The complaint-in-intervention is therefore dismissible for failure to state a cause of action against the petitioners.

Secondly, VMTA has no legal interest in the matter in litigation. It is not privy to the Contract of Lease between ORTIGAS and VMGA. It came into the picture only after the expiration of the said contract.

Finally, Section 1, Rule 19 of the 1997 Rules of Civil Procedure provides:

Section 1. Who may intervene. A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of the property in the custody of the court or of an offices thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

As a general guide in determining whether a party may intervene, the court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding (Sec. 2(b), Rule 12; Balane, et al. vs. De Guzman, et al., 20 SCRA 177 [1967]).

The complaint below is primarily on the issue of specific performance. The relief being sought by the VMTA in its complaint-in-intervention is the reimbursement of expenses incurred by it for the repair/restoration of the Virra Mall Building. VMTA's cause of action has a standpoint which is unique to itself. New, unrelated, and conflicting issues would be raised which do not concern the petitioners herein, or VMTA as intervenor. Inevitably, the allowance of the intervention will not only cause delay in the trial of the action, make the issues even more complicated, and stretch the issues in the action as well as amplify the breadth of the remedies and relief.

Thereafter, VMTA filed a Motion for Reconsideration, which the CA denied in the assailed Resolution dated 14 May 2008.[19] Hence, the instant Petition raising the following issues:

I.

With due respect, the Honorable Court of Appeals committed grave error in declaring that the complaint in intervention failed to state a cause of action against private respondents when it declared that the complaint in intervention belies any correlative obligation on the part of private respondents vis-à-vis the legal right of petitioner for reimbursement.

II.

With due respect, the Honorable Court of Appeals committed grave error in holding that private respondents are not the proper parties against whom the subject action for reimbursement must be directed to but recourse would be for petitioner VMTA to file and direct its claim against OCLP who has the obligation to pay petitioner VMTA since it was OCLP who has (sic) ordered to undertake the restoration and rehabilitation of the burned area or section of the Virra Mall Building.

III.

With due respect, the Honorable Court of Appeals similarly committed grave error when it ruled that the complaint-in-intervention is not the proper action to enforce its right in the controversy between OCLP and private respondents since the proper remedy is for petitioner VMTA to ventilate and protect its right in a separate action.[20]

The determination of whether the CA committed reversible error in dismissing the Complaint-in-Intervention filed by VMTA boils down to the sole issue of the propriety of this remedy in enforcing the latter's rights.

According to VMTA, it has a legal interest in Civil Case No. 69312, which is rooted in the alleged failure of VMGA to turn over the insurance proceeds for the restoration and rehabilitation of Virra Mall, in breach of the latter's contractual obligation to Ortigas. However, the CA ruled against this position taken by VMTA not only because, in the CA's view, VMTA's Complaint-in-Intervention failed to state a cause of action, but also because it has no legal interest in the matter in litigation. We rule in favor of VMTA.

Section 1, Rule 19 of the Rules of Court provides:

Who may intervene. - A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

In *Executive Secretary v. Northeast Freight*,[21] this Court explained intervention in this wise:

Intervention is not a matter of absolute right but may be permitted by the court when the applicant shows facts which satisfy the requirements of the statute authorizing intervention. Under our Rules of Court, what qualifies a person to intervene is his possession of a legal interest in the matter in litigation or in the success of either of the parties, or an interest against both; or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or an officer thereof. As regards the legal interest as qualifying factor, this Court has ruled that such interest must be of a direct and immediate character so that the intervenor will either gain or lose by the direct legal operation of the judgment. The interest must be actual and material, a concern which is more than mere curiosity, or academic or sentimental desire; it must not be indirect and contingent, indirect and remote, conjectural, consequential or collateral. However, notwithstanding the presence of a legal interest, permission to intervene is subject to the sound discretion of the court, the exercise of which is limited by considering "whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding." [22] (Emphasis supplied.)

Applying the foregoing points to the case at bar, VMTA may be allowed to intervene, and the ruling of RTC Br. 67 allowing intervention was wrongly reversed by the CA because such a ruling does not constitute grave abuse of discretion.

VMTA has a cause of action

A cause of action is defined as "the act or omission by which a party violates a right of another." [23] In *Shell Philippines v. Jalos*, [24] this Court expounded on what constitutes a cause of action, to wit:

A cause of action is the wrongful act or omission committed by the defendant in violation of the primary rights of the plaintiff. Its elements consist of: (1) a right existing in favor of the plaintiff, (2) a duty on the part of the defendant to respect the plaintiff's right, and (3) an act or omission of the defendant in violation of such

right. To sustain a motion to dismiss for lack of cause of action, however, the complaint must show that the claim for relief does not exist and not only that the claim was defectively stated or is ambiguous, indefinite or uncertain.[25]

In the case at bar, VMTA, in its Complaint-in-Intervention, explicitly laid down its cause of action as follows:[26]

Pursuant to and by virtue of such claim, defendant VMGA and defendant VMGA Board Members, impleaded as party defendants herein, received, at various times, from their insurance broker, and it is in their custody, the insurance proceeds arising out of such claim which, as of January 8, 2003, aggregated P48.6-Million. Having failed to deliver the said proceeds to the real beneficiary inspite of due notice and demand, plaintiff Ortigas herein instituted the present action against all the defendants to compel delivery of the said insurance proceeds which are being unlawfully and illegally withheld by all the defendant VMGA and defendant VMGA Board Members inspite of written demands made therefor. Worse, a portion of said insurance proceeds, aggregating P8.6-Million had already been disbursed and misappropriated in breach of trust and fiduciary duty. (Emphasis supplied.)

It is clear from the foregoing allegations that VMTA's purported right is rooted in its claim that it is the real beneficiary of the insurance proceeds, on the grounds that it had (a) facilitated the repair and restoration of the insured infrastructure upon the orders of Ortigas, and (b) advanced the costs thereof. Corollarily, respondents have a duty to reimburse it for its expenses since the insurance proceeds had already been issued in favor of respondent VMGA, even if the latter was not rightfully entitled thereto. Finally, the imputed act or omission on the part of respondents that supposedly violated the right of VMTA was respondent VMGA's refusal, despite demand, to release the insurance proceeds it received to reimburse the former for the expenses it had incurred in relation to the restoration and repair of Virra Mall. Clearly, then, VMTA was able to establish its cause of action.

VMTA has a legal interest in the matter in litigation

VMTA was also able to show its legal interest in the matter in litigation -- VMGA's insurance proceeds -- considering that it had already advanced the substantial amount of P18,902,497.75 for the repair and restoration of Virra Mall. That VMTA seeks reimbursement from Ortigas is precisely the reason why intervention is proper. The main issue in Civil Case No. 69312 is whether Ortigas has a contractual right to the insurance proceeds received by VMGA. Thus, the recoupment by VMTA of the expenses it incurred in the repair of Virra Mall depends on the success of either party in the main case. VMTA therefore has an undeniable stake in Civil Case No. 69312 that would warrant its intervention therein.

Further, the issuance to Ortigas of a Writ of Preliminary Attachment against VMGA puts VMTA in a situation in which it will be adversely affected by a distribution or other disposition of the property in the custody of the court, pursuant to the said writ. The prospect of any distribution or disposition of the attached property will likewise affect VMTA's claim for reimbursement.

VMTA's intervention in Civil Case No. 69312 will avoid a multiplicity of suits

Lastly, allowing VMTA to intervene in Civil Case No. 69312 finds support in *Heirs of Medrano v. De Vera*,[27] to wit:

The purpose of intervention is to enable a stranger to an action to become a party in order for him to protect his interest and for the court to settle all conflicting claims. Intervention is allowed to avoid multiplicity of suits more than on due process considerations.[28]

Thus, although the CA was correct in stating that VMTA could always file a separate case against Ortigas, allowing VMTA to intervene will facilitate the orderly administration of justice and avoid a multiplicity of suits. We do not see how delay will be inordinately occasioned by the intervention of VMTA, contrary to the fear of the

CA.

WHEREFORE, the instant petition is GRANTED. The Decision dated 21 May 2007 and Resolution dated 14 May 2008 of the CA are hereby REVERSED and SET ASIDE insofar as the dismissal of the Complaint-in-Intervention filed by VMTA is concerned. The Complaint-in-Intervention of VMTA in Civil Case No. 69312 is allowed to proceed before RTC Br. 67.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Mendoza,[*] JJ., concur.

[*] Raffle dated 19 September 2011.

[1] Rollo, pp. 104-143; Penned by former Court of Appeals Associate Justice, now Supreme Court Associate Justice, Bienvenido L. Reyes, concurred in by Court of Appeals Associate Justices Santiago Lagman and Bruselas, Jr.

[2] Rollo, pp. 16-23.

[3] CA Decision p. 2; rollo, p. 105.

[4] Id.

[5] Id.

[6] CA Decision pp. 2-3; rollo, pp. 105-106.

[7] Comment/Opposition pp. 9-10; rollo, pp. 219-220; Complaint p. 6; rollo, p. 300.

[8] CA Decision p. 3; rollo, p. 106.

[9] Petition, p. 9; rollo, p. 75; Decision, p. 4; rollo, p. 107; Agreement (To Assignment of Right to, and Interest in, Contract of Lease), rollo, pp. 180-183.

[10] CA Decision p. 3; rollo, p. 106.

[11] Petition, p. 8; rollo, p. 74.

[12] Petition, pp. 20-21; rollo, pp. 86-87; Complaint-in-Intervention, pp. 2-3, rollo, pp. 162-163.

[13] Rollo, p. 184.

[14] Petition, p. 9; rollo, p. 75.

[15] Rollo, pp. 185-188; Petition, p. 10; rollo, p. 76.

[16] Petition, p. 12; rollo, p. 78.

[17] Id.

[18] Decision pp. 37-38; rollo, pp. 140-141.

[19] Rollo, pp. 16-23.

[20] Petition, p. 18; rollo, p. 84.

[21] G.R. No. 179516, 17 March 2009, 581 SCRA 736.

[22] Id. at 743.

[23] Section 2, Rule 2 of the Rules of Court.

[24] G.R. No. 179918, 8 September 2010, 630 SCRA 399.

[25] Id. at 408.

[26] Complaint-in-Intervention, p. 4; rollo, p. 164.

[27] G.R. No. 165770, 9 August 2010, 627 SCRA 109.

[28] Id. at 122.

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